IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.14291 of 1999

Between:

G.Raja Sekhar, S/o Venkateshwarlu,
aged about 37 years, R/o Prakasam District

..... PETITIONER

AND

1 The Hon'ble Labour Court-I, Rep. by its Presiding Officer,
Hyderabad.
2 The Depot Manager, A.P.S.R.T.C.,
Hyderabad-II Depot, Hyderabad.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.14291 of 1999

ORAL ORDER:

This Writ Petition is filed by the workman being aggrieved by the Award dated 15-10-1996 passed in I.D.No.20 of 1995 on the file of the Labour Court-I, Hyderabad insofar as denying the benefit of continuity of service, back wages and attendant benefits is concerned.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation in the year 1990 and was attached to Parigi Depot. Subsequently, he was transferred to Hyderabad II Depot. While working under the 2nd respondent and when he was performing the duty on the route Vikarabad to Hyderabad on 3-1-1992, a check was exercised at Stage No.12 and certain irregularities were noticed by the checking officials. A charge memo was issued and basing on the same, a charge sheet was issued enumerating the following charges:

> "For having reissued ticket bearing No.086/536322 and of Rs.3.75 ps denomination to 2 individual passengers after collecting the requisite fare of Rs.3.75 plaint schedule property each who were found traveling from Sdidalur and bound for Enkepally 'X' Road, ex-stages 16 to 17. These tickets were found already issued in up-journey from Proddutur to Thangapally ex-stages 10 to 14 and accounted at stage No.15 in the S.R.No.9315291, dated.31.1.1992 which constitutes misconduct under Reg.No.28(xxiii)&(xxxii) of APSRTC Employees (Conduct) Regulations 1963.

> For having reissued ticket bearing No.260/298573 of Rs.1 deno. to a passenger who boarded your bus at Thangadapally and found alighting at Kothapally ex-stages 14 to 12. This ticket was found already issued in Up-journey from Pusulamamidi to Vikarabad ex-stages 17 to 19 and accounted at stage No.18 in S.R.No.9315291 dated 31-1-1992 which is misconduct under Reg.No.28 Reg.No.28(xxiii)&(xxxii) of APSRTC Employees (Conduct) Regulations 1963.

For having failed to close the tray number of all denominations against stage No.12 even though the service reached Kothapally, which is misconduct under Reg.No.28(xxxii) of APSRTC Employees (Conduct) Regulations 1963."

He submitted explanation on 13-2-1992 to the said charges. Having not satisfied with the explanation submitted by him, a detailed enquiry was ordered and the Enquiry Officer submitted his report holding him guilty of the charges. On the basis of the Enquiry Officer's report, he was issued with a show cause notice dated 30-5-1992 proposing the punishment of removal from service. After receiving the explanation from him, he was finally removed from service of the Corporation by Proceedings of the 2nd respondent dated 22-6-1992. Aggrieved by the same, he filed an appeal and the same was dismissed on 31-12-1992. Having no other option, he approached Labour Court-I, Hyderabad and filed a claim petition under Section 2-A(2) of the Industrial Disputes Act,1947 and the same was taken on file as I.D.No.20 of 1995. The respondent-Corporation filed its rejoinder before the Labour Court denying the allegations made by the petitioner in the claim petition. The Labour Court after considering the evidence placed before it, passed an award dated 15-10-1996 holding that though the charges are proved, the punishment of removal from service was disproportionate to that of the misconduct proved and, therefore, directed fresh appointment of the petitioner as Conductor on certain conditions including that the petitioner shall be paid only 90% of his gross salary on reinstatement. Hence, this Writ Petition.

Learned counsel for the respondent-Corporation, though no counter affidavit is filed, strenuously contended that the Labour Court itself has taken a lenient view for the serious misconduct of re-issue of tickets and granted some relief in view of the fact that the petitioner was a novice to the job. The Award of the Labour Court is just and proper and does not require interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Award.

At the outset, I am of the opinion that the Labour Court has not committed any error in directing fresh appointment of the petitioner with certain conditions. However,

since there was no blemish record of the service rendered by the petitioner, I am of the opinion that the punishment of reinstating him afresh with 90% of the gross, total and entire salary is unreasonable and requires to be set aside. Therefore, the impugned Award of the Labour Court is set aside only to the extent of deleting clause (b) i.e. '*it is further ordered that for a period of one year from the date of his actually reporting for duty and commencing performing duty subsequent to the receipt of 'Order of Appointment and Posting', he has to work on ninety percent (90%) of gross, total and entire salary*'. However, it is made clear that the petitioner's 100% salary shall be restored only from the month of August,2005. The rest of the Award of the Labour Court is confirmed.

Accordingly, the Writ Petition is allowed in part. No order as to costs.

28-7-2005

prk